

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
GAINESVILLE DIVISION

**DEFENDANT RAY H. ADAMS' OBJECTIONS TO
GOVERNMENT'S REQUESTS TO CHARGE**

COMES NOW DEFENDANT Ray H. Adams, by and through undersigned counsel, and objects to the Government's proposed requests to charge the jury as follows:

1

Defendant objects to the omission of the “overt acts” language of the standard General Conspiracy Charge found at pages 147-48 of the Eleventh Circuit Pattern Jury Instruction, Criminal Cases. In Count One of the Superseding Indictment, at paragraphs 6-15, the Government alleges 10 Overt Acts in furtherance of the conspiracy. If the Government in fact believed that an overt act is not required for a conspiracy under 18 U.S.C. § 175(a), it would not have alleged the multiple overt acts in the Superseding Indictment. “The crime of conspiracy is

complete upon the commission of an overt act. *See United States v. Arias*, 431 F.3d 1327, 1340 n. 18 (11th Cir. 2005).” *United States v. Dominguez*, 661 F.3d 1051, 1064 (11th Cir. 2011).

2.

Defendant objects to the third paragraph of Government’s Request to Charge No. 12, providing:

To acquire, retain, or possess, a biological toxin in its naturally occurring environment, that had not been extracted from its natural source, with the intent to use the toxin as a weapon means to acquire, retain, or possess the toxin with the intent to injure or harm another person or persons. It is not required that the government prove beyond a reasonable doubt that the Defendant intended to kill another person or persons. Furthermore, intent to use a toxin as a weapon does not require the government to prove actual or attempted use of the toxin.

The Government cites to 18 U.S.C §§ 175(a) and 178(2). Section 175(a) reads as follows:

IN GENERAL. Whoever knowingly develops, produces, stockpiles, transfers, acquires, retains, or possesses any biological agent, toxin, or delivery system for use as a weapon, or knowingly assists a foreign state or any organization to do so, or attempts, threatens, or conspires to do the same, shall be fined under this title or imprisoned for life or any term of years, or both. There is extraterritorial Federal jurisdiction over an offense under this section committed by or against a national of the United States.

18 U.S.C. § 175(a). The statute says nothing about intent to injure or harm. The term “for use as a weapon” is defined in the negative in subsection (c) of Section 175:

DEFINITION. For purposes of this section, the term “for use as a weapon” includes the development, production, transfer, acquisition, retention, or possession of any biological agent, toxin, or delivery system for other than prophylactic, protective, bona fide research, or other peaceful purposes.

18 U.S.C. 175(c). That is, a biological agent or toxin developed, produced, or possessed for prophylactic, protective, bona fide research, or other peaceful purposes is not a weapon. There is no definition as to the nature of the harm required under Section 175(a).

Respectfully submitted, this 13th day of January, 2014.

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CERTIFICATE OF SERVICE

I hereby certify that on January 13, 2014, I electronically filed the foregoing DEFENDANT RAY H. ADAMS' OBJECTIONS TO GOVERNMENT'S REQUESTS TO CHARGE with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the following attorneys of record:

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